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AZERBAIJAN: "He was acting as a bookseller illegally"

By Felix Corley, Forum 18 (<https://www.forum18.org>)

On 14 July Azerbaijan's Supreme Court is due to hear a challenge by Kamran Abdiyev to a fine of 18 months' average wages, for distributing religious literature which has not undergone the compulsory state censorship. "He was acting as a bookseller illegally," an official of the State Committee for Work with Religious Organisations told Forum 18 News Service. Judge Gulzar Rzayeva, who will be presiding over the appeal, rejected the last appeal of Jehovah's Witness conscientious objector and former prisoner of conscience Kamran Mirzayev, Forum 18 notes. He is now intending to lodge an appeal to the European Court of Human Rights (ECtHR) in Strasbourg. And four of five planned criminal trials of imprisoned Sunni Muslim prisoners of conscience have begun at a court in the capital Baku. All face up to two years' imprisonment and all are associated with a Sunni mosque the government plans to forcibly close after the European Games. Like Abdiyev, the five prisoners of conscience are charged with selling uncensored religious literature.

On 14 July Azerbaijan's Supreme Court is due to hear a challenge to a fine of 18 months' average wages, for distributing religious literature which has not undergone the compulsory state censorship. "Kamran Abdiyev has no lawyer, and will be representing himself at the hearing," Judge Gulzar Rzayeva – who will be presiding over the appeal - told Forum 18 News Service from the Supreme Court on 25 May. Meanwhile, the criminal trials of four of the five imprisoned Sunni Muslims for similarly selling uncensored religious literature began at a court in the capital Baku from mid-May. All face up to two years' imprisonment.

The five Sunni Muslims are among eight prisoners of conscience being held at the National Security Ministry (NSM) secret police Investigation Prison in Baku to punish them for exercising the right to freedom of religion or belief. Two of the other prisoners of conscience are Jehovah's Witnesses women and the eighth prisoner is a Shia Muslim (see F18News 14 May 2015 http://www.forum18.org/archive.php?article_id=2061).

State censorship of religious texts is strictly applied and the Old Testament, the writings of Islamic theologian Said Nursi, and some Jehovah's Witness texts are on a police list of banned religious literature (see F18News 6 May 2014 http://www.forum18.org/archive.php?article_id=1955). These texts are routinely confiscated by police (see eg. F18News 3 June 2014 http://www.forum18.org/archive.php?article_id=1964).

And in the latest extension of the powers of the State Committee for Work with Religious Organisations, anyone organising foreign travel for religious purposes, including pilgrimages abroad, now requires a licence from the State Committee (see below).

"Acting as a bookseller illegally"

In summer 2014, 244 Muslim books were confiscated from Abdiyev, who lives in Qaradag District of south-western Baku. "He was acting as a bookseller illegally," an official of the State Committee's "Expertise" Department told Forum 18 on 25 May. Among the tasks of this Department is state censorship. "He had no licence from the State Committee, no permission to sell religious literature – indeed, he hadn't made himself known to us. He was selling such literature clandestinely."

All 244 books were handed over to the State Committee for an "expert analysis". "The books were not designated for distribution in Azerbaijan," the official – who would not give his name – told Forum 18. "We found that they represented fundamentalist, politicised Islam and propagated inter-religious discord. By our criteria they are banned."

The official said many of the books were from Saudi Arabia, or were printed in Azerbaijan in the 1990s. "At that time many Wahhabis were here. Such people used to call for Shia Muslims to be killed." The term "Wahhabis" is often used by officials to describe people they do not like, such as Sunni Muslims protesting at state moves to close their mosques (see eg. F18News 28 May 2014 http://www.forum18.org/archive.php?article_id=1962).

Asked to name any of the titles confiscated from Abdiyev, the official refused, saying simply: "There were so many."

The official repeatedly claimed that the books confiscated from Abdiyev contained illegal material. But the official was unable to explain why Abdiyev had been punished for distributing uncensored religious books and not on charges for alleged "extremism".

"If censorship was abolished.."

The State Committee official readily acknowledged to Forum 18 that censorship of religious literature exists. "Azerbaijan defends its national interests," he insisted. "So we must have experts who can check religious literature. We wouldn't be working here if censorship was abolished."

Asked whether the late President Heydar Aliyev had been wrong to claim in 1998 that the country had abolished censorship, the official repeated his defence of the compulsory prior state censorship of all religious literature printed in or imported into Azerbaijan (see the Norwegian Helsinki Committee/Forum 18 report on freedom of religion or belief in Azerbaijan http://www.nhc.no/no/nyheter/Freedom+of+religion+restricted+in+Azerbaijan.b7C_wlnY1a.ips).

Massive fine, first appeal fails

Following the State Committee "expert analysis", a case was instituted against Abdiyev under Criminal Code Article 167-2.1. This punishes: "Production, sale and distribution of religious literature, religious items and other informational materials of religious nature with the aim of import, sale and distribution without appropriate authorisation". Punishments for first time offenders acting alone are a fine of 5,000 to 7,000 Manats or up to two years' imprisonment.

Criminal Code Article 167-2 was among other many new criminal and administrative punishments for exercising freedom of religion or belief introduced in 2011 (see Forum 18's Azerbaijan religious freedom survey http://www.forum18.org/Archive.php?article_id=1690).

Abdiyev's trial finally began with a preliminary hearing at Baku's Qaradag District Court on 1 August 2014. At the final hearing on 9 September, Judge Rashad Mammadov found him guilty and fined him 6,000 Manats (now about 44,240 Norwegian Kroner, 5,250 Euros, or 5,710 US Dollars), according to court records. This represents 18 months' average wage, according to the State Statistics Committee.

Abdiyev appealed against the conviction and fine, but on 4 December 2014 Judge Abid Abdinbayov rejected his appeal at Baku Appeal Court, according to court records.

On 1 April 2015, Abdiyev appealed further to the Supreme Court, where the case was assigned to Judge Rzayeva. She told Forum 18 that he had lodged the case himself, without the involvement of any lawyer. She said the court materials she has been given do not indicate if Abdiyev has yet paid the fine.

Judge Rzayeva declined to discuss the case more as it has not yet been heard. "The [14 July] court hearing will be open, so come along if you want to follow the case," she told Forum 18.

"We don't have a law on alternative service"

The same Judge Rzayeva at the Supreme Court had rejected the last appeal of Jehovah's Witness conscientious objector and former prisoner of conscience Kamran Mirzayev on 24 February (see F18News 14 May 2015 http://www.forum18.org/archive.php?article_id=2061). He is now intending to lodge an appeal to the European Court of Human Rights (ECtHR) in Strasbourg, where three other Azerbaijani Jehovah's Witness conscientious objectors have already appealed over their earlier imprisonment (see F18News 14 May 2015 http://www.forum18.org/archive.php?article_id=2061). The ECtHR has not made any admissibility decisions on the three cases.

Judge Rzayeva acknowledged to Forum 18 that she was aware of Azerbaijan's Council of Europe obligations to, by 2003:

- "adopt .. a law on alternative service in compliance with European standards";
- "pardon all conscientious objectors presently serving prison terms or serving in disciplinary battalions";
- and to introduce a law allowing "non-armed military service or alternative civilian service".

There are no signs that the government has any intention of keeping this promise (see the Norwegian Helsinki Committee/Forum 18 report on freedom of religion or belief in Azerbaijan http://www.nhc.no/no/nyheter/Freedom+of+religion+restricted+in+Azerbaijan.b7C_wlnY1a.ips).

Asked why she had not upheld Mirzayev's right not to be punished for rejecting military service and asking to do an alternative civilian service, in line with Azerbaijan's Constitution, Judge Rzayeva replied: "We don't have a law on alternative service."

Current Jehovah's Witness conscientious objector Kamran Shikhaliyev has lodged an appeal with the Supreme Court in Baku against

his one year sentence of detention in a military disciplinary unit. He has been subjected to "physical abuse, verbal humiliation, and psychological pressure" but, Jehovah's Witnesses have told Forum 18, "he has not wavered in his conscientious religious position" (see F18News 14 May 2015 http://www.forum18.org/archive.php?article_id=2061).

Five current prisoners of consciences' trials begin

Meanwhile, four of the five planned trials of a group of Sunni Muslims arrested in Baku in February have begun. All five prisoners of conscience – Imam Mubariz Qarayev, Habibullah Omarov, Salim Qasimov, Eyvaz Mammadov and Azad Qafarov – had run several shops selling books and other religious items in Baku's Narimanov District. All are also associated with the Sunni Lezgin Mosque which the government intends to forcibly close after the European Games. The five were arrested by the NSM secret police in February and have been held since then at the NSM Investigation Prison in Baku (see F18News 14 May 2015 http://www.forum18.org/archive.php?article_id=2061).

All five prisoners of conscience are, like Abdiyev, facing trial for selling books illegally under Criminal Code 167-2.1. The separate trials are taking place at Baku's Narimanov District Court.

- Qafarov's trial was the first to begin, with a preliminary hearing under Judge Turqay Huseynov on 18 May, according to court records. The trial proper begins on the morning of 29 May.

- Omarov's trial began next, with a preliminary hearing under Judge Rashad Abdulov on 19 May. The trial proper begins on the morning of 27 May.

- Imam Qarayev's trial began later, with a preliminary hearing under Judge Huseynov on 22 May. However, the Prosecutor told the hearing that day that preparation of the case had not been completed and asked for the hearing to be postponed. The hearing was rescheduled for the afternoon of 27 May.

- Mammadov's trial began with a preliminary hearing on 26 May under Judge Abdulov.

- No date appears to have been set for Qasimov's trial to begin.

The five prisoners of consciences' prison address is:

Milli Tahlükasizlik Nazirliyinin

Istintaq Tacridxanasi

Parlament Prospekti 14

Baku AZ-1006

Azerbaijan

Trial continues for five former prisoners of conscience

The criminal trial continues under Judge Akshin Afandiyev at Baku's Yasamal District Court of five other Sunni Muslims. Four of the five - Eldeniz Hajiyev, Ismayil Mammadov, Zakariyya Mammadov and Shahin Hasanov – face up to five years' imprisonment if convicted. The fifth - Revan Sabzaliyev – faces up to three years' imprisonment. The trial began with a preliminary hearing on 10 December 2014 and hearings have continued since then (see F18News 14 May 2015 http://www.forum18.org/archive.php?article_id=2061).

The five Muslim former prisoners of conscience were with others arrested for participating in a meeting to discuss their faith which was raided by armed police and NSM secret police in April 2014. Officials confiscated religious books, money and mobile telephones. Almost all the 39 adults and two children present were taken to the police station for questioning. The five Muslims were transferred to house arrest in September 2014 after up to five months in pre-trial detention at the NSM secret police Investigation Prison in Baku (see F18News 22 September 2014 http://www.forum18.org/archive.php?article_id=1999).

Hajiyev and Ismayil Mammadov are being tried under Criminal Code Article 167-2.2.1 and Article 168.2. Sabzaliyev is being tried under Criminal Code Article 168.2. Zakariyya Mammadov and Hasanov are being tried under Criminal Code Article 167-2.2.1 and Article 168.1. The Mammadovs are brothers and with Hajiyev and Hasanov face up to five years' imprisonment if convicted. Sabzaliyev faces up to three years' imprisonment (see F18News 12 February 2015 http://www.forum18.org/archive.php?article_id=2037).

Controls over foreign religious tours

Azerbaijan's Cabinet of Ministers has imposed a new requirement for organisers of religious tours abroad to gain a licence from the State Committee. The requirement was imposed in a 23 April amendment to a 7 November 2002 Cabinet of Ministers decree specifying activities that need a state licence in Azerbaijan. The amendment, signed by Prime Minister Artur Rasi-Zada, was published on 17 May 2015 on the website of the parliamentary newspaper "Azerbaijan".

A 24 September 2009 amendment to the same 2002 Decree had imposed the requirement that the State Committee approve religious educational institutions.

Other regulations already give the State Committee sweeping powers over other religious activity. Without its permission, religious communities who meet for worship can be punished. Religious literature must be subjected to its prior approval. Those wishing to sell religious literature similarly need a licence from the State Committee (see the Norwegian Helsinki Committee/Forum 18 report on freedom of religion or belief in Azerbaijan http://www.nhc.no/no/nyheter/Freedom+of+religion+restricted+in+Azerbaijan.b7C_wlnY1a.ips).

No-one at the State Committee was prepared to discuss with Forum 18 why these new controls over foreign religious travel are needed and how they accord with Azerbaijan's international obligations to implement human rights, including freedom of movement.

Some of the other state-imposed restrictions on the exercise of freedom of religion or belief also restrict religious communities' contacts with fellow-believers abroad. Forum 18 also knows of several foreigners legally resident in Azerbaijan, who were forced to leave since the beginning of 2015 as officials objected to their active role in local religious communities. (END)

For more background information see Forum 18's Azerbaijan religious freedom survey at http://www.forum18.org/Archive.php?article_id=1690.

More coverage of freedom of thought, conscience and belief in Azerbaijan is at <http://www.forum18.org/Archive.php?query=&religion=all&country=23>.

See also the Norwegian Helsinki Committee/Forum 18 report on freedom of religion or belief in Azerbaijan at: http://www.nhc.no/no/nyheter/Freedom+of+religion+restricted+in+Azerbaijan.b7C_wlnY1a.ips

A compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments can be found at http://www.forum18.org/Archive.php?article_id=1351.

For a personal commentary, by an Azeri Protestant, on how the international community can help establish religious freedom in Azerbaijan, see http://www.forum18.org/Archive.php?article_id=482.

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